

### REMARKS

In response to the non-final Office Action of July 9, 2008, applicants ask that all claims be allowed in view of the amendment to the claims and the following remarks. Claims 1, 13, and 19 are pending, each of which is independent. Claim 1 has been withdrawn from consideration, leaving claims 13 and 19 presented for examination.

#### **Interview Request**

Applicants respectfully request a personal interview with the Examiner prior to the substantive examination of this Amendment. To that end, applicants' representative will be contacting the Examiner shortly to schedule an interview. However, to the extent that an interview has not been scheduled prior to the substantive examination of this Amendment, applicants respectfully request the Examiner to treat the foregoing as a formal interview request and ask that the Examiner call the undersigned at (202) 783-5070 to schedule an interview prior to taking any further action in this case.

#### **Claim Rejections Under 35 U.S.C. § 112**

Independent claim 13 has been rejected under 35 U.S.C. § 112, second paragraph as being indefinite. In particular, the Office Action contends that the language "determining, a ranked order of a plurality of product attributes including the product attribute" is unclear. *See* Office Action of July 9, 2008 at page 2, lines 17-19. Applicants have deleted this language from independent claim 13 by way of this Amendment. Accordingly, applicants request reconsideration and withdrawal of the rejection of independent claim 13 under 35 U.S.C. § 112, second paragraph.

#### **Claim Rejections Under 35 U.S.C. § 101**

Independent claim 13 has been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office Action contends that independent claim 13 is "not tied to another statutory class and can be performed without a particular apparatus. Thus,

[claim 13 is] non-statutory since [it] may be performed within the human mind.” Office Action of July 9, 2008 at page 3, line 23 to page 4, line 2. Applicants have amended independent claim 13 to recite that the method is a computer-implemented method. As such, the method is performed by a computer and, therefore, not within a human mind. Accordingly, applicants request reconsideration and withdrawal of the rejection of independent claim 13 under 35 U.S.C. § 101.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 13 and 19 have been rejected under 35 U.S.C. § 103(a) as being obvious in view of the combination of U.S. Patent No. 6,826,541 (Johnston) and “Trade Analysis: A Survey of Commercially Available Techniques” (McCullough). Applicants have amended independent claims 13 and 19 and request reconsideration and withdrawal of the rejection of independent claims 13 and 19 because the combination of Johnston and McCullough fails to describe or suggest all of the features recited in independent claims 13 and 19.

As amended, independent claim 13 recites a computer-implemented method for determining preference information for a respondent that includes, among other features, for each of multiple attributes that are characteristic of a product, causing a display of a graphical user interface that presents selectable indications of multiple different attribute levels for the attribute, that enables the respondent to provide feedback regarding the different attribute levels for the attribute, that includes a region that is identified as corresponding to unacceptable attribute levels, a region that is identified as corresponding to a least-preferred attribute level, a region that is identified as corresponding to a most-preferred attribute level, and a region that is identified as corresponding to intermediately-preferred attribute levels, and that is configured to enable the respondent to designate an attribute level for the attribute as an unacceptable attribute level for the attribute by selecting the selectable indication of the attribute level and dragging the selectable indication of the attribute level to the region of the graphical user interface identified as corresponding to unacceptable attribute levels for the attribute, to enable the respondent to designate an attribute level for the attribute as a least-preferred attribute level for the attribute by

selecting the selectable indication of the attribute level and dragging the selectable indication of the attribute level to the region of the graphical user interface identified as corresponding to the least preferred attribute level for the attribute, to enable the respondent to designate an attribute level for the attribute as an intermediately preferred attribute level for the attribute by selecting the selectable indication of the attribute level and dragging the selectable indication of the attribute level to the region of the graphical user interface identified as corresponding to intermediately preferred attribute levels for the attribute, and to enable the respondent to designate an attribute level for the attribute as a most preferred attribute level for the attribute by selecting the selectable indication of the attribute level and dragging the selectable indication of the attribute level to the region of the graphical user interface identified as corresponding to the most preferred attribute level for the attribute. In addition, independent claim 13 also recites, for each attribute among a subset of attributes belonging to a particular pile, the subset excluding the most important attribute to the respondent and one or more other attributes belonging to the particular pile, assigning a relative importance value to the attribute based on a received indication of the importance of the difference between the respondent's least preferred attribute level for the attribute and the respondent's most preferred attribute level for the attribute relative to the difference between the respondent's least preferred attribute level for the most important attribute to the respondent and the respondent's most preferred attribute level for the most important attribute to the respondent, and, for each of several attributes that belong to the particular pile but that are not included in the subset of attributes, assigning a relative importance value to the attribute based on a ranking of the attribute within a ranked order of the attributes received from the respondent. These features of independent claim 13 have been newly added by way of this Amendment. Naturally, therefore, the Office Action of July 9, 2008 does not address these newly added features. Moreover, these newly added features are not described or suggested by the combination of Johnston and McCullough. Accordingly, for at least this reason, applicants request reconsideration and withdrawal of the rejection of independent claim 13.

As amended, independent claim 19 recites features that are similar to those discussed above in connection with independent claim 13 and does so in the context of a device. Accordingly, at least for the reasons discussed above in connection with independent claim 13, applicants request reconsideration and withdrawal of the rejection of amended independent claim 19.

Applicants note that the Office Action appears to rely on Official Notice in rejecting independent claims 13 and 19. In particular, the Office Action asserts that "it is old and well known in the art that utility is the equivalent of part worth value" and that "[i]t was very old and well known in the art . . . that the determination of the part worth value of an attribute level could have been based on it's classification level." Office Action of July 9, 2008 at page 5, lines 1-2 and page 5, line 21 to page 6, line 2. To the extent that such assertions amount to Official Notice and are maintained, applicants request that the Examiner provide documentary evidence in support of these assertions.

Applicants further note that the Office Action also appears to rely on Official Notice in rejecting dependent claims 17 and 21. In particular, the Office Action asserts that "[i]t was very old and well known in the art . . . that the act of classifying was the subjectively logical grouping of items based on some criteria. As such the addition of the classification class '**intermediately-preferred**' would have been within the skill set of one of ordinary skill in the art . . . ." Office Action of July 9, 2008 at page 10, lines 5-8 (emphasis in original). To the extent that this assertion amounts to Official Notice and is maintained, applicants request that the Examiner provide documentary evidence in support of this assertion.

## Conclusion

Applicants submit that all claims are in condition for allowance.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims)

Applicant : Sev K. H. Keil et al.  
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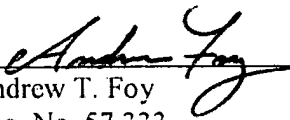
Attorney's Docket No.: 24491-0004001

that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

The fee in the amount of \$245 in payment of the Petition for the Two-month Extension of Time Fee is being paid concurrently herewith on the Electronic Filing System by way of Deposit Account Authorization. Please apply any other charges or credits associated with the filing of this paper or otherwise to deposit account 06-1050.

Respectfully submitted,

Date: 12/9/2008

  
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Andrew T. Foy  
Reg. No. 57,333

Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington, DC 20005-3500  
Telephone: (202) 783-5070  
Facsimile: (877) 769-7945